IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 13TH APRIL 2007 / 23RD CHAITHRA 1929

Crl.MC.No. 1188 of 2007()

CRA.291/2004 of SESSIONS COURT, THODUPUZHA
CC.932/2004 of JUDL. MAGI. OF FIRST CLASS-I (FOREST OFFENCES), THODUPUZHA

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PETITIONER/ACCUSED:

ABRAHAM, S/O. ABRAHAMN
VADAKKEDATHU VEEDU, NEYYASSERY
VILLAGE, THODUPUZHA TALUK.

BY ADV. SRI.M.BALAGOVINDAN
SRI.M.R.SASITH

RESPONDENTS/STATE & PETITIONER:

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1. A.J. JOHNSON, S/O. JOSEPH,
ARACKAKUDIYIL VEEDU,
NEYYASSERY VILLAGE, THODUPUZHA TALUK.

2. STATE OF KERALA, REP. BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

R2 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.Nos. 1188 & 1189 of 2007

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Dated this the 13th day of April, 2007

O R D E R

The petitioner has been found guilty, convicted and sentenced in two separate prosecutions, both under Section 138 of the N.I. Act and both initiated by the same respondent/complainant. The verdict of guilty and conviction have become final with the disposal of the revision petitions by this Court. The petitioner now faces a sentence of imprisonment till rising of court and a direction to pay compensation in each case. Default sentences have also been imposed.

2. The petitioner has come to this Court along with the respondent/complainant. According to the petitioner, the direction for payment of the amount of compensation has been complied with in full in both cases. An amount of Rs.50,000/- has been deposited before the court below. An amount of Rs. 1 lakh has been paid directly to the complainant. Thus the direction for payment of compensation in both cases is satisfied completely. The respondent is represented by counsel before me and the learned counsel for the respondent also confirms these facts.

3. Why then has the petitioner come before this Court. The counsel relies on the dictum in **Sabu George** v. **Home Secretary** (2007 (1) KLT982). I am not persuaded in the facts and circumstances of this case that the safety value provision (for post revision composition by invoking the powers) under Section 482 Cr.P.C. can or need be invoked in this case. The petitioner faces only a sentence of imprisonment till rising of Court. Of course there is a further direction to pay the compensation and to suffer default sentence. If compensation amount has been paid as submitted by the petitioner and confirmed by the counsel for the respondent, there can be no question of any default sentence being enforced against the petitioner. The petitioner and the respondent can appear before the learned Magistrate and satisfy the learned Magistrate that the entire amount of compensation has been deposited and/or paid. On such satisfaction being entertained, there can be no question of the default sentence being executed against the petitioner. The last trace of doubt, if any, on this aspect is laid to rest in view of the decision in **Girish** v. **Muthoot Capital Services (P) Ltd.** (2007 (1) KLT 16). I find no merit in these petitions.

4. These petitions are accordingly dismissed, but subject to the above observations. Needless to say, the amount in deposit shall be released forthwith to the complaint.

5. Hand over copy of the order.

(R. BASANT)
Judge

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